

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ABU DHABI COMMERCIAL BANK, et al., :
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Plaintiffs, : 08 Civ. No 7508 (SAS)
- against - :
MORGAN STANLEY & CO. INC., et al., : ECF Case
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Defendants. :
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**DECLARATION OF JAMES P. ROUHANDEH IN SUPPORT OF
MORGAN STANLEY & CO. INCORPORATED'S AND MORGAN STANLEY & CO.
INTERNATIONAL LIMITED'S MOTION FOR SUMMARY JUDGMENT
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 56(c)**

James P. Rouhandeh, pursuant to 28 U.S.C. § 1746, hereby declares:

1. I am an attorney admitted to practice before this Court, and I am a partner in the law firm of Davis Polk & Wardwell LLP, counsel for defendants Morgan Stanley & Co. Incorporated and Morgan Stanley & Co. International Limited (“Morgan Stanley”) in the above-captioned matter. I submit this Declaration in support of Morgan Stanley’s Motion for Summary Judgment pursuant to Federal Rule of Civil Procedure 56(c).

2. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the Cheyne Finance PLC U.S. \$3,000,000 Capital Note Programme Information Memorandum dated July 29, 2005.

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the Cheyne Finance LLC U.S. \$10,000,000,000 U.S. Commercial Paper Program Information Memorandum dated October 11, 2006.

4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the Cheyne Finance LLC U.S. \$10,000,000,000 U.S. Medium Term Note Program Information Memorandum dated August 10, 2005.

5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the March 5, 2010 deposition of Olivia Birchall as FRCP 30(b)(6) corporate representative for Plaintiff Abu Dhabi Commercial Bank (“ADCB”).

6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the January 18-19, 2010 deposition of Vikas Vijayan as FRCP 30(b)(6) corporate representative for Plaintiff ADCB.

7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from the September 14-15, 2011 deposition of Andrew Baron as FRCP 30(b)(6) corporate representative for Plaintiff The Bank of N.T., Butterfield & Son Limited (“Butterfield”).

8. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the October 26-27, 2011 deposition of Sascha Klaus as FRCP 30(b)(6) corporate representative for Plaintiff Commerzbank AG (“Commerzbank”).

9. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the November 10, 2011 deposition of Michael J. Lombardi as FRCP 30(b)(6) corporate representative for Plaintiff State Board of Administration of Florida (“FSBA”).

10. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from the November 21, 2011 deposition of Dennis Walsh as FRCP 30(b)(6) corporate representative for Victory Capital Management (“Victory”), an investment advisor for Plaintiff FSBA.

11. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the October 3-4, 2011 deposition of Yaser Humaidan as FRCP 30(b)(6) corporate representative for Plaintiff Gulf International Bank, B.S.C. (“GIB”).

12. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the October 5-6, 2011 deposition of David Wilson as FRCP 30(b)(6) corporate representative for Plaintiff Global Investment Services Limited (“GIS”).

13. Attached hereto as Exhibit 12 is a true and correct copy of excerpts from the September 26-27, 2011 deposition of Frederic Becker as FRCP 30(b)(6) corporate representative for Plaintiff Bank Hapoalim B.M. (“Hapoalim”).

14. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from the June 16, 2011 deposition of Michael Smith, an employee of Plaintiff King County, Washington (“King County”).

15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the October 12-14, 2011 deposition of Byung-Gyu Pahk as FRCP 30(b)(6) corporate representative for Plaintiff National Agricultural Cooperative Federation (“NACF”).

16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the November 10, 2011 deposition of James Grossman as FRCP 30(b)(6) corporate representative for Plaintiff Commonwealth of Pennsylvania Public School Employees’ Retirement System (“PSERS”).

17. Attached hereto as Exhibit 16 is a true and correct copy of a document entitled “Subjects of Examination Under Deposition Subpoena,” which was introduced as Defendants’ Exhibit 589 at the November 15, 2011 deposition of Christopher Burton as FRCP 30(b)(6)

corporate representative for Credit Suisse Asset Management (“CSAM”), an investment advisor for Plaintiff PSERS.

18. Attached hereto as Exhibit 17 is a true and correct copy of excerpts from the September 28-29, 2011 deposition of Christian Herter as FRCP 30(b)(6) corporate representative for Plaintiff Deutsche Postbank AG (“Postbank”).

19. Attached hereto as Exhibit 18 is a true and correct copy of excerpts from the February 4-5, 2010 deposition of James F. Smigiel as FRCP 30(b)(6) corporate representative for Plaintiff SEI Investments Company (“SEI”).

20. Attached hereto as Exhibit 19 is a true and correct copy of excerpts from the July 22, 2011 deposition of Paul T. Quistberg as FRCP 30(b)(6) corporate representative for Columbia Management Advisors, LLC (“CMA”), an investment advisor for Plaintiff SEI.

21. Attached hereto as Exhibit 20 is a true and correct copy of excerpts from the June 10, 2011 deposition of Daisy Lac, an employee of Plaintiff SEI Investment Strategies, LLC (“SEI Strat”).

22. Attached hereto as Exhibit 21 is a true and correct copy of excerpts from the September 9, 2011 deposition of Phillip N. Picariello as FRCP 30(b)(6) corporate representative for Plaintiff SFT Collective Investment Fund (“SFT”).

23. Attached hereto as Exhibit 22 is a true and correct copy of excerpts from the October 17-18, 2011 deposition of James Chen as FRCP 30(b)(6) corporate representative for Plaintiff Bank SinoPac (“SinoPac”).

24. Attached hereto as Exhibit 23 is a true and correct copy of the Expert Report of Dr. Brian G. Cartwright dated October 17, 2012.

25. Attached hereto as Exhibit 24 is a true and correct copy, as produced to defendants by Plaintiff Butterfield, of page 7 of a facsimile from Alistair Border to the Bank of Butterfield Executor & Trustee Co. Ltd., dated May 11, 2007 and bearing bates number BTRFLD0000021.

26. Attached hereto as Exhibit 25 is a true and correct copy, as produced to defendants by Plaintiff Butterfield, of page 6 of a facsimile from Alistair Border to the Bank of Butterfield Executor & Trustee Co. Ltd., dated May 11, 2007 and bearing bates number BTRFLD0000022.

27. Attached hereto as Exhibit 26 is a true and correct copy of excerpts from the February 9-10, 2010 deposition of Kenneth M. Guy as FRCP 30(b)(6) corporate representative for Plaintiff King County.

28. Attached hereto as Exhibit 27 is a true and correct copy, as produced to defendants by third party CSAM, of excerpts from a redacted copy of a document reflecting a Cheyne Finance transaction, bearing bates number CSAM001202.

29. Attached hereto as Exhibit 28 is a true and correct copy of excerpts from the November 15, 2011 deposition of Christopher Burton as FRCP 30(b)(6) corporate representative for CSAM.

30. Attached hereto as Exhibit 29 is a true and correct copy of excerpts from the June 22, 2011 deposition of Lauren Woo, a former employee of Plaintiff SEI.

31. Attached hereto as Exhibit 30 is a true and correct copy, as produced to Defendants by Plaintiff SFT, of a facsimile from Kelly Zambrano to Peter Mason, dated April 4, 2007, and bearing bates number ESEC0000256.

32. I declare under penalty of perjury that the foregoing is true and correct.

Executed: November 30, 2012
New York, New York

DAVIS POLK & WARDWELL LLP

By: /s/ James P. Rouhandeh
James P. Rouhandeh
james.rouhandeh@davispolk.com

450 Lexington Avenue
New York, New York 10017
(212) 450-4000

*Counsel for Defendants Morgan Stanley &
Co. Incorporated and Morgan Stanley &
Co. International Limited*